

No. 1959-68 CIVIL ACTION

Thomasville Furniture Industries
Inc.

VERSUS

Abraham L. Kaminstein, Register
of Copyrights

[illegible]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THOMASVILLE FURNITURE INDUSTRIES, INC.,)

Plaintiff)

Address:
Thomasville, North Carolina

Civil Action

No. 1959-68

v.

ABRAHAM L. KAMINSTEIN, REGISTER OF
COPYRIGHTS,

Defendant)

FILED

AUG 2 1968

ROBERT M. STEARNS, Clerk

COMPLAINT

For Declaratory Judgment And
Mandatory Injunction Under
the Copyright Laws, Title
17 U.S.C.

1. Jurisdiction of this Court is founded upon the Copyright Laws, Title 17 U.S.C., particularly sections 10, 11, 13, 19, 208 and 209 thereof, and upon 28 U.S.C. sections 1338(a), 2201 and 2202; venue is laid in this District under 28 U.S.C., Sections 1391(c) and 1400(a).

2. Plaintiff, Thomasville Furniture Industries, Inc., is a corporation incorporated according to the laws of the State of North Carolina, and has its principal office and place of business at Thomasville, North Carolina.

3. Defendant, Register of Copyrights, is a resident of the District of Columbia.

4. Plaintiff Thomasville Furniture Industries, Inc. is the proprietor of all copyrightable material in and to certain artistically sculpted designs denominated, respectively, "Allegro Semainier", "Allegro Night Stand", "Allegro Desk", "Allegro Corner Desk", "Allegro Chest", "Allegro Low Chest", "Allegro Double Dresser", and "Allegro

Triple Dresser", hereinafter referred to as the "Allegro" designs.

5. On April 22, 1966, Plaintiff first publicly placed on sale, sold or publicly distributed copies of each of the aforementioned artistically sculpted "Allegro" designs. Statutory notice of claim to copyright, "Copyright Thomasville Furniture Industries, Inc., 1966", was affixed to the first copy and each subsequent copy of each such work published, offered for sale or sold within the United States.

6. On May 8, 1968, plaintiff made application for registration of its claim to copyright in each of the aforementioned "Allegro" designs, by duly filing with the defendant eight applications for registration of plaintiff's claim to copyright in each of the eight "Allegro" designs, in copyright Class G, which pertains to works of art and designs for works of art. With each such application, plaintiff tendered deposit copies, in the form and number provided by 17 U.S.C. 13, illustrating the work. With each such application plaintiff also tendered the statutory registration fee of \$6.00.

7. Plaintiff has fully complied with all of the provisions of Title 17, U.S.C., including the notice of copyright, the application for registration of claim to copyright, the deposit of copies, and the payment of the registration fee, as to each of the "Allegro" sculpted designs.

8. On May 27, 1968, the defendant, or others acting under the authority of the defendant, wrongfully and erroneously refused to register the plaintiff's claims to

copyright for the aforesaid artistically sculpted "Allegro" designs solely on the alleged ground that none of plaintiff's designs can be "identified as a work of art for copyright purposes".

9. The refusal of the defendant to register plaintiff's claims to copyright, as aforesaid, is a final action of the Register of Copyrights, for which no other review is provided by the Copyright Laws.

WHEREFORE, plaintiff demands the following relief:

A. A judgment declaring that plaintiff's artistically sculpted "Allegro" designs constitute works of art within the meaning of the Copyright Statutes.

B. An order compelling the defendant to register plaintiff's claims to copyright in each of its artistically sculpted "Allegro" designs, and to issue to plaintiff the Certificate of Registration provided for by 17 U.S.C. 209.

C. Such other and further relief as to the Court may seem meet and just.

CUSHMAN, DARBY & CUSHMAN
Attorneys for Plaintiff

By 

730 15th Street, N.W.
Washington, D.C.
Telephone: NA 8-3460

Of Counsel;
William K. West, Jr., Esq.

FILED

AUG 2 1968

ROBERT M. STEARNS, Clerk

3.00

United States District Court
FOR THE
District of Columbia

1959-68

THOMASVILLE FURNITURE INDUSTRIES, INC.

CIVIL ACTION FILE NO.

Plaintiff

v.

ABRAHAM L. KAMINSTEIN, Register of
copyrights

Defendant

SUMMONS

To the above named Defendant :

You are hereby summoned and required to serve upon

CUSHMAN, DARBY & CUSHMAN

JAMES L. DOOLEY

plaintiff's attorney , whose address

730 15th St., N.W.

Washington, D. C.

an answer to the complaint which is herewith served upon you, within ⁶⁰~~20~~ days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

ROBERT M. STEARNS

Clerk of Court.

Deputy Clerk.

Date: August 2, 1968

[Seal of Court]

Note:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

RETURN ON SERVICE OF WRIT

I hereby certify and return, that on the _____ day of _____, 19____, I received this summons and served it together with the complaint herein as follows:

MARSHAL'S FEES

Travel \$ _____

Service _____

United States Marshal.

By _____

Deputy United States Marshal.

Subscribed and sworn to before me, a _____ this _____ day of _____, 19____.

[SEAL]

Note:—Affidavit required only if service is made by a person other than a United States Marshal or his Deputy.

No. _____	United States District Court FOR THE _____	v.	SUMMONS IN CIVIL ACTION	Returnable not later than _____ days after service.	Attorney for Plaintiff FPI-LK-7-27-66-150M-6466
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INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Deliver *ONLY* to
addressee

☐ Show address where
delivered

(Additional charges required for these services)

RECEIPT

Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE *(must always be filled in)*

Department of Justice
Records Administration Office

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Communications Section
Ralph R. Reynolds, Supervisor

DATE DELIVERED

By  SHOW WHERE DELIVERED *(only if requested)*

8/7/68

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

CA 1954-68

PENALTY FOR PRIVATE USE TO AVOID
PAYMENT OF POSTAGE, \$300

POSTMARK OF
DELIVERING OFFICE

INSTRUCTIONS: Fill in items below and complete instructions on other side, if applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article RETURN RECEIPT REQUESTED.

RETURN
TO

REGISTERED NO.

NAME OF SENDER

CERTIFIED NO.

STREET AND NO. OR P. O. BOX

INSURED NO.

CITY, ZONE AND STATE

U S MARSHAL'S OFFICE
UNITED STATES COURT HOUSE
WASHINGTON, D. C. 20001

POD Form 3811 Apr. 1962

RETURN ON SERVICE OF WRIT

United States of America

DISTRICT OF

Col

FILED

AUG 26 1968

ROBERT M. STEARNS, Clerk

Clerk's No.

14-175968

vs.

U.S. Marshal's No.

SERVICE COMPLETED or ENDEAVOR TO SERVE

I hereby certify and return that I endeavored to serve the annexed
served (Writ)
on the therein-named Attorney General
(Name of individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with (if endeavor—describe what was
done in endeavoring to serve) him, by certified mail
(Name of individual or agent of company, corporation, etc.)

personally at (if endeavor—show addresses where endeavors made) Dept. of
Justice
(Address—Street number, apartment number, rural route, etc.)
Washington, D.C.
(City) (State) in the said District

at a.m.-p.m., on the 7 day of August, 1968

SERVICE NOT COMPLETED

Date

I hereby certify and return, that on the day of 19
I received the within and that after
diligent search, I am unable to find the within named
within said district.

LUKE C. MOORE

Marshal's fees

Mileage

United States Marshal.

By

Norothy M. Gregory
Deputy.

RETURN ON SERVICE OF WRIT

United States of America

DISTRICT OF

Columbia

FILED
AUG 26 1968
ROBERT M. STEARNS, Clerk

Thomas Furniture Industries, Inc.

Clerk's No. _____

ROBERT M. STEARNS, Clerk

vs.
Abraham L. Kominsky,
Register of Copyrights

U.S. Marshal's No. _____

SERVICE COMPLETED or ENDEAVOR TO SERVE

I hereby certify and return that I endeavored to serve the annexed *Summons & Complaint* served (Writ)

on the therein-named

District Attorney

(Name of individual, company, corporation, etc.)

Authorized to accept service for

United States Attorney

U.S. District Court House

by handing to and leaving a true and correct copy thereof with (if endeavor—describe what was done in endeavoring to serve)

(Name of individual or agent of company, corporation, etc.)

personally at (if endeavor—show addresses where endeavors made)

(Address—Street number, apartment number, rural route, etc.)

(City)

(State)

in the said District

at *5:00* a.m.-p.m., on the *7* day of *August*, 19*68*.

SERVICE NOT COMPLETED

Date _____

I hereby certify and return, that on the _____ day of _____, 19____,

I received the within _____ and that after

diligent search, I am unable to find the within named _____

within said district.

Marshal's fees _____

Mileage _____

LUKE C. MOORE

United States Marshal.

By _____

Deputy.

RETURN ON SERVICE OF WRIT

United States of America

DISTRICT OF Cal

FILED

AUG 26 1968

ROBERT M. STEARNS, Clerk
C.D. 195-915, Clerk

Thomasville Furniture Ind.

Clerk's No. _____

vs.

Abraham L. Kamenstein

U.S. Marshal's No. _____

SERVICE COMPLETED or ENDEAVOR TO SERVE

I hereby certify and return that I endeavored to serve the annexed Summons & Complaint
served (Writ)
on the therein-named Abraham L. Kamenstein
(Name of individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with (if endeavor—describe what was
done in endeavoring to serve) _____
(Name of individual or agent of company, corporation, etc.)

personally at (if endeavor—show addresses where endeavors made) _____

Library of Congress Annex
(Address—Street number, apartment number, rural route, etc.)
Washington D.C. in the said District
(City) (State)

at _____ a.m.—p.m., on the _____ day of _____, 19____.

SERVICE NOT COMPLETED

Date AUG 22 1968

I hereby certify and return, that on the 2 day of AUG, 1968,

I received the within Summons and that after
diligent search, I am unable to find the within named Abraham L. Kamenstein

UNABLE TO CONTACT

within said district.

LUKE C. MOORE

Marshal's fees _____

United States Marshal.

Mileage _____

By

A. Catterlin Deputy.

United States District Court
FOR THE
District of Columbia

CIVIL ACTION FILE NO. 1959-68

THOMASVILLE FURNITURE INDUSTRIES, INC.

Plaintiff

v.

ABRAHAM L. KAMINSTEIN, Registrar of
Copyrights

Defendant

SUMMONS

To the above named Defendant :

You are hereby summoned and required to serve upon

Cushman, Darby & Cushman
James L. Dooley

plaintiff's attorney , whose address is 730 15th St., N. W.

an answer to the complaint which is herewith served upon you, within 20 days after service of this
summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken
against you for the relief demanded in the complaint.

ROBERT M. STEARNS

Clerk of Court.

Mary Helen Traile
Deputy Clerk.

Date: August 27, 1968

[Seal of Court]

Note:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

RETURN ON SERVICE OF WRIT

I hereby certify and return, that on the _____ day of _____, 19____, I received this summons and served it together with the complaint herein as follows:

MARSHAL'S FEES

Travel \$.....

Service _____

_____ United States Marshal.

By _____ Deputy United States Marshal.

Subscribed and sworn to before me, a _____ this _____ day of _____, 19____.

[SEAL] _____

Note:—Affidavit required only if service is made by a person other than a United States Marshal or his Deputy.

No.

United States District Court
FOR THE _____

v.

SUMMONS IN CIVIL ACTION

Returnable not later than _____ days after service.

Attorney for Plaintiff

FPI-LK-7-20-65-140M-5003

RETURN ON SERVICE OF WRIT

United States of America

DISTRICT OF

col

FILED
AUG

AUG 28 1968

ROBERT M. STEARNS, Clerk

Homesville, Guam Ind. Inc. Clerk's No.

vs.

A. P. Kamenstein Reg. of copyright U.S. Marshal's No. *CA 1959-68*

SERVICE COMPLETED or ENDEAVOR TO SERVE

I hereby certify and return that I ~~endeavored to serve~~ the annexed Summons
served (Writ)
on the therein-named Register of Copyrights Library of Congress
(Name of individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with (if endeavor—describe what was
done in endeavoring to serve) Barbara Owens, Inc.
(Name of individual or agent of company, corporation, etc.)

personally at (if endeavor—show addresses where endeavors made)

1st & B.C.

(Address—Street number, apartment number, rural route, etc.)

(City)

Washington Dc (City) (St)

(State)

in the said District

at 3:00 a.m.-p.m., on the 27 day of August, 1960

SERVICE NOT COMPLETED

Date _____

I hereby certify and return, that on the _____ day of _____, 19____,

I received the within _____ and that after

diligent search, I am unable to find the within named _____

_____ within said district.

Marshal's fees _____

Mileage _____

LUKE C. MOORE

United States Marshal.

By

Deputy.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THOMASVILLE FURNITURE INDUSTRIES, INC.,

Plaintiff,

v.

ABRAHAM L. KAMINSTEIN, REGISTER OF
COPYRIGHTS,
COPYRIGHT OFFICE, LIBRARY OF CONGRESS
WASHINGTON, D. C. 20540

Defendant.

Civil Action

No. 1959-68

FILED

SEP 26 1968

ROBERT M. STEARNS, Clerk

ANSWER
TO
COMPLAINT FOR DECLARATORY
JUDGMENT AND MANDATORY INJUNCTION
UNDER THE COPYRIGHT LAWS, TITLE 17 U.S.C.

Comes now the defendant, by his attorney, the United States Attorney and in answer to the complaint avers as follows:

First Defense

The complaint fails to state a claim against defendant upon which relief can be granted.

Second Defense

Answering specifically the numbered paragraphs of the complaint, defendant avers as follows:

1. Defendant denies the allegations in paragraph 1 concerning jurisdiction and further denies that plaintiff has a cause of action against defendant.

2. Defendant is without knowledge or information sufficient to form a belief and therefore denies each and every allegation in paragraph 2.

3. Defendant admits the allegations in paragraph 3.

4. Defendant denies the allegations in paragraph 4.

5. Defendant denies that the alleged "designs" are "artistically sculpted," but is without knowledge or information sufficient to form a belief and therefore denies the remaining allegations in paragraph 5.

6. As to the allegations in paragraph 6, defendant denies that plaintiff has a valid claim to copyright in any of the alleged "designs"; admits that on May 8, 1968, plaintiff filed with the defendant eight applications, one for each of the eight alleged "designs," for registration of claims to copyright in Class G which pertains to "works of art and designs for works of art"; admits that with each such application, plaintiff deposited, in lieu of copies of the work as provided by section 13 of Title 17 of the United States Code and section 202.16 of the Regulations of the Copyright Office (37 C.F.R.), photographs of an article of furniture which purported to incorporate the alleged "design," a different article of furniture being the subject of each of the eight applications; and admits that with each such application plaintiff also tendered the registration fee of \$6.00.

7. As to the allegations in paragraph 7, defendant denies that plaintiff has fully complied with all the provisions of Title 17, United States Code, with respect to each of the alleged "designs"; is without knowledge or information sufficient to form a belief and therefore denies that plaintiff has fully complied with the provisions of Title 17 as to the notice of copyright on the copies of each article of furniture purporting to incorporate each of the alleged "designs"; admits that, with respect to each such article of furniture, plaintiff has complied with the provisions of Title 17 as to the filing of an application for registration of claim to copyright, as to the deposit of photographs of the furniture in lieu of copies, and as to the tender of the registration fee.

8. Defendant admits that on May 27, 1968, the defendant refused to register the plaintiff's claims to copyright for the alleged "designs" represented by the articles of furniture of which photographs were deposited with the applications for registration, on the ground stated in defendant's letter of May 27, 1968 to plaintiff's counsel, a copy of which letter is attached hereto as Exhibit A and incorporated herein by reference, but defendant denies the remaining allegations in paragraph 8.

9. Defendant admits the allegations in paragraph 9.

Third Defense

Defendant avers that none of the eight articles of furniture, of which photographs were deposited by plaintiff with eight applications for the registration of copyright claims, constitutes or embodies a copyrightable work of art or a copyrightable work of any other category under the Copyright Law, Title 17 of the United States Code, and that none of the copyright claims asserted in the eight applications is entitled to registration.

WHEREFORE, defendant prays that the complaint be dismissed.

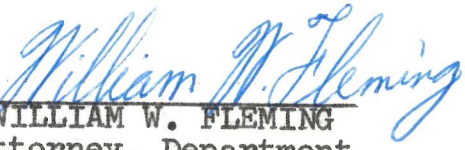
David Bress
DAVID BRESS
United States Attorney

Joseph M. Hannon
JOSEPH M. HANNON
Assistant United States
Attorney

William W. Fleming
WILLIAM W. FLEMING
Attorney, Department of
Justice
Patent Section, Civil
Division
Department of Justice
Washington, D.C. 20530
RE-7-8200, Ext. 3329

Certificate of Service

Copy of the foregoing Answer to Complaint for Declaratory Judgment and Mandatory Injunction under the Copyright Laws, Title 17, U.S.C., including the exhibit attached thereto, was served on James L. Dooley, Esq., attorney for the plaintiff, by mailing to him, postpaid, at his address: 730 15th Street, N.W., Washington, D.C. 20005, this 26th day of September, 1968.


WILLIAM W. FLEMING
Attorney, Department
of Justice

MAY 27 1968

XX

20540

BB:slt
5-23-68

m.c. 1959-68

Exhibit

FILED

SEP 26 1968

ROBERT M. STEARNS, Clerk

Cushman, Darby & Cushman
730 Fifteenth Street, N. W.
Washington, D. C. 20005

Attention: James L. Dooley, Esquire

Dear Mr. Dooley:

We have received the material you recently submitted in connection with the work ALLGRO CORNER DESK and 70 others.

Nothing can be copyrighted unless it is the "writing of an author." To be regarded as a "writing" a work must contain original creative authorship in the form of literary, musical or artistic expression.

Copyrightable "writings" include books, musical compositions, and works of art such as paintings, drawings, and statues. To be copyrightable as a "work of art" a work must contain at least a certain minimum amount of original pictorial, graphic, or sculptural expression.

The courts have held that an original "work of art" may be eligible for copyright protection, even if it is embodied in or applied to a useful article. Section 202.10 (c) of the regulations expresses our position on this point. Please see the attached Circular 96D.

We regret that we find this work contains no elements, either alone or in combination, which are capable of independent existence as a pictorial, graphic, or sculptured work. It may be that the design elements are of high aesthetic quality, originality and commercial value, but the fact remains that they cannot be considered "works of art" within the meaning of the present copyright law.

Since neither the design as a whole nor any part of it can be identified as a work of art for copyright purposes, your remittance will be refunded shortly under separate cover.

Enclosures:

3 sets of photos returned
Circular 96D

Under Separate Cover:

Tr. Ch. \$48.00- in due course

Sincerely yours,
Dorothy H. Schrader
Head, Arts Section
Examining Division

By:

COPYRIGHT OFFICE
THE LIBRARY OF CONGRESS
WASHINGTON, D. C. 20540

SECTIONS 202.9 through 202.14
of the

Regulations of the Copyright Office
(As amended through April 21, 1966)

ca. 1959-68
Exhibit
FILED

SEP 26 1968

ROBERT M. STEARNS, Clerk

§ 202.9 Maps (Class F).

This class includes all published cartographic representations of area, such as terrestrial maps and atlases, marine charts, celestial maps and such three-dimensional works as globes and relief models.

§ 202.10 Works of art (Class G).

- (a) *General.* This class includes published or unpublished works of artistic craftsmanship, insofar as their form but not their mechanical or utilitarian aspects are concerned, such as artistic jewelry, enamels, glassware, and tapestries, as well as works belonging to the fine arts, such as paintings, drawings and sculpture.
- (b) In order to be acceptable as a work of art, the work must embody some creative authorship in its delineation or form. The registrability of a work of art is not affected by the intention of the author as to the use of the work, the number of copies reproduced, or the fact that it appears on a textile material or textile product. The potential availability of protection under the design patent law will not affect the registrability of a work of art, but a copyright claim in a patented design or in the drawings or photographs in a patent application will not be registered after the patent has been issued.
- (c) If the sole intrinsic function of an article is its utility, the fact that the article is unique and attractively shaped will not qualify it as a work of art. However, if the shape of a utilitarian article incorporates features, such as artistic sculpture, carving, or pictorial representation, which can be identified separately and are capable of existing independently as a work of art, such features will be eligible for registration.

§ 202.11 Reproductions of works of art (Class H).

This class includes published reproductions of existing works of art in the same or a different medium, such as a lithograph, photoengraving, etching or drawing of a painting, sculpture or other work of art.

§ 202.12 Drawings or plastic works of a scientific or technical character (Class I).

- (a) This class includes published or unpublished two-dimensional drawings and three-dimensional plastic works which have been designed for a scientific or technical use and which contain copyrightable graphic, pictorial, or sculptured materials. Works registrable in Class I include diagrams or models illustrating scientific or technical works or formulating scientific or technical information in linear or plastic form, such as, for example: a mechanical drawing, an astronomical chart, an architect's blueprint, an anatomical model, or an engineering diagram.

- (b) A work is not eligible for registration as a "plastic" work in Class I merely because it is formed from one of the commonly known synthetic chemical derivatives such as styrenes, vinyl compounds, or acrylic resins. The term "plastic work" as used in this context refers to a three-dimensional work giving the effect of that which is molded or sculptured. Examples of such works include statues of animals or plants used for scientific or educational purposes, and engineers' scale models.
- (c) A claim to copyright in a scientific or technical drawing, otherwise registrable in Class I, will not be refused registration solely by reason of the fact that it is known to form a part of a pending patent application. Where the patent has been issued, however, the claim to copyright in the drawing will be denied copyright registration.

§ 202.13 Photographs (Class J).

This class includes published or unpublished photographic prints and filmstrips, slide films and individual slides. Photoengravings and other photomechanical reproductions of photographs are registered in Class K on Form K.

§ 202.14 Prints, pictorial illustrations and commercial prints or labels (Class K).

- (a) This class includes prints or pictorial illustrations, greeting cards, picture postcards and similar prints, produced by means of lithography, photoengraving or other methods of reproduction. These works when published are registered on Form K.
- (b) A print or label, not a trademark, containing copyrightable pictorial matter, text, or both, published in connection with the sale or advertisement of an article or articles of merchandise is also registered in this class on Form KK. In the case of a print which is published in a periodical, use Form KK if the print is used in connection with the sale or advertisement of an article of merchandise, Form BB if it is not. Multipage works are more appropriately classified in Class A than in Class K.
- (c) A claim to copyright cannot be registered in a print or label consisting solely of trademark subject matter and lacking copyrightable matter. While the Copyright Office will not investigate whether the matter has been or can be registered at the Patent Office, it will register a properly filed copyright claim in a print or label that contains the requisite qualifications for copyright even though there is a trademark on it. However, registration of a claim to copyright does not give the claimant rights available by trademark registrations at the Patent Office.

Civil No. 1959-68

THOMASVILLE FURNITURE
INDUSTRIES, INC.

Plaintiff,

vs.

KAMINSTEIN

Defendant.

~~3000~~

CAUSE CALENDARED

Sep. 26, 1968

Attorney for plaintiff:

Cushman, Darby & Cushman

730 - 15th St., N. W.

Attorney for defendant:

David G. Bress

U. S. Courthouse

The suit is for DECLARATORY

JUDGMENT

ROBERT M. STEARNS, Clerk

(ND)

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Cal
9-26-68

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THOMASVILLE FURNITURE INDUSTRIES, INC.,
Plaintiff,
v.
ABRAHAM L. KAMINSTEIN, REGISTER OF
COPYRIGHTS
Defendant.

Civil Action

No. 1959-68

FILED

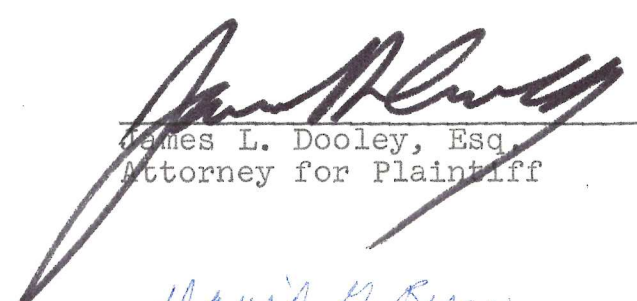
JAN 3 1969

ROBERT M. STEARNS, Clerk


STIPULATION OF DISMISSAL
UNDER RULE 41(a)(1)

Now come the parties to this action, Thomasville Furniture Industries, Inc. and Abraham L. Kaminstein, in his capacity as Register of Copyrights for the United States, by and through their respective counsel, and mutually agree and stipulate that the plaintiff's complaint herein be, and hereby is, dismissed with prejudice.

The parties state that no counterclaim, cross claim or third party claim has been filed in this action, and therefore no further matters requiring attention by the Court shall remain pending in this action.


James L. Dooley, Esq.
Attorney for Plaintiff


United States Attorney


William W. Fleming
Attorney, Department
of Justice

FILED

JAN 3 1969

ROBERT M. STEARNS, Clerk